

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

## MANAGEMENT DISCUSSION & ANALYSIS

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## PERFORMANCE PLAN AND RESULTS (GPRA)

This report contains FY 2012 accomplishments of the National Mediation Board relating to goals and objectives for Mediation, Alternative Dispute Resolution, Representation, and Arbitration. These accomplishments enabled the NMB to meet its statutory obligations and provide services to its airline and railroad labor, management and public customers.

GPRA

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**NOTE** A complete list of acronyms is given at the back of this Annual Report.

## PERFORMANCE AND GOALS

### STRATEGIC PLAN GENERAL GOAL 1

#### Mediation and Alternative Dispute Resolution

**Mediation and Alternative Dispute Resolution (ADR) will continue to foster the prompt and peaceful resolution of collective bargaining disputes in the airline and railroad industries.**

#### MEDIATION/ADR

- I Continue to develop standard training for mediators to ensure they are kept abreast of the latest trends in mediation and gain additional industry and technical knowledge in both air and rail.

**FY 2012 ACCOMPLISHMENT:** Through the use of Individual Development plans each mediator participated in training and development that met their individual needs. In addition, training covering industry specific topics, and guest speakers, was conducted during the bi-monthly mediator meetings.

- II Better track the history of cases. Work with Arbitration and Representation to revise and improve the agency case management system.

**FY 2012 ACCOMPLISHMENT:** We continued to fine tune the capabilities of and information tracked in the case management system. New specialty reports to help in workload planning and historical research were developed and used.

- III Expand ADR capabilities to address the changing labor environment in the airline and railroad industries and provide more varied assistance in dispute resolution both in-between and during contract negotiations.

- A. Use outreach and promotion efforts to raise the visibility of the ADR program. Continue to utilize partnerships with institutions of higher learning to improve and expand ADR Services.

**FY 2012 ACCOMPLISHMENTS:** ADR continued to engage in outreach and promotion efforts with parties in the airline and railroad industries. The result of these efforts was a continued case-load requiring special dispute resolution efforts, and ADR/ODR presentations to carriers, organizations, and professional associations. Special concentration was given to local leadership at the railroads and rail organizations with grievance mediation overviews and presentations given to those who handle the lion's share of grievance handling. During FY2012, marketing students in the graduate school of Dominican University did an analysis of the NMB's grievance mediation program and presented plans for increasing the use of GM in the railroad sector. Those recommendations will be used in FY2013 to expand the use of GM.

- B. Review ADR services for potential deletions, additions, or changes.

**FY 2012 ACCOMPLISHMENTS:** Each year ADR Services reviews its programs, assessing existing training and service delivery. The NMB expanded the Lyceum, an online learning resource that helps reduce travel costs for GM training. Working with Arbitration, ADR staff increased its promotion of expedited arbitration coupled with grievance mediation as an option for the parties.

STRATEGIC PLAN  
GENERAL GOAL 2  
Representation

IV

Pursue interagency projects, including personnel exchange programs, to enhance labor-management relations throughout the airline and railroad industries.

**FY 2012 ACCOMPLISHMENTS:** ADR Services continued to actively participate in the Interagency ADR Working Group to promote ADR in government. As a part of this effort, ADR Services provided training to other government agencies such as the Federal Maritime Commission.

V

Engage in outreach and education programs to ensure that the NMB is seen as a world leader in airline and railroad labor-management issues and submit proposals for presentations at dispute resolution conferences.

**FY 2012 ACCOMPLISHMENTS:** ADR staff members were involved in presentations to: the Association for Conflict Resolution, the Dispute Resolution Section of the American Bar Association, the Interagency Dispute Resolution Working Group Steering Committee, American Law Institute and American Bar Association (ALI-ABA), the International Online Dispute Resolution Forum, and numerous other dispute resolution and legal organizations.

**The Office of Legal Affairs (OLA) will promptly investigate representation disputes and definitively resolve representation status for collective bargaining purposes, using the most efficient and client-friendly methods available.**

I

Expand the use of electronic systems to further streamline and reduce cost; continue to integrate Representation data into the agency Corporate Memory; and work with ADR to implement electronic filing for OLA.

**FY 2012 ACCOMPLISHMENT:** OLA primarily accepts electronic submissions in representation cases. The Office of Legal Affairs continued to reduce its use of paper documents by implementing a test program to take electronic witness statements in representation interference investigations.

II

Develop outreach opportunities in the legal, labor relations and alternative dispute resolution communities. Submit proposals for participation in conferences sponsored by the American Bar Association (ABA). Develop appropriate CLE and other training opportunities for RLA practitioners.

**FY 2012 ACCOMPLISHMENT:** OLA attorneys helped plan the agenda for the ABA Railroad and Airline Labor Law Section's Mid-winter meeting; planned and participated in the ABA's Labor and Employment Annual CLE Meeting; and contributed to a three day Continuing Legal Education seminar on the Railway Labor Act sponsored by ALI-CLE.

III

Implement and maintain concise, relevant reference materials and make them readily available to the public, thereby reducing the number of work-hours used to research and respond to inquiries; update and improve the material available on the NMB web site; and revise NMB's Representation Manual.

**FY 2012 ACCOMPLISHMENT:** OLA attorneys completed working on the 3rd Edition of the authoritative treatise on Railway Labor Act Law published by the Bureau of National Affairs. OLA attorneys began work on a "pocket part" supplement updating the treatise.

## STRATEGIC PLAN GENERAL GOAL 3

### Arbitration

IV

Maintain continuous industry and agency communication at a level that provides early preparation for Presidential Emergency Board management, and coordinate efforts with the Office of Mediation and ADR Services to identify potential disruptions which may lead to a Presidential Emergency Board.

**FY 2012 ACCOMPLISHMENT:** The Office of Legal Affairs continually coordinates with the Office of Mediation and ADR Services to evaluate potential disruptions in the industry. OLA attorneys served as counsel to PEB 243.

**Arbitration will promote the prompt and orderly resolution of grievance disputes in the railroad and airline industries.**

I

Modernize and update procedures related to NRAB Section-3 cases and other arbitral forums (public law boards and system boards of adjustment). Conduct a business process review of NRAB case handling.

**FY 2012 ACCOMPLISHMENT:** An audit was conducted of the NRAB administrative caseload processes, and procedures governing public law boards and system boards of adjustments were reviewed with the goal of streamlining procedures.

II

Foster a “best practices” approach to managing the contract-arbitrator roster. Move arbitrator roster information to a new case management system. Improve the guidelines for accepting applicants to the roster.

**FY 2012 ACCOMPLISHMENT:** The NMB instituted a project to improve the NMB Roster of Arbitrators. An NMB Arbitrators Caseload Report was updated on the NMB website, along with the official Roster of Arbitrators.

III

Foster a “best practices” approach to managing arbitrator billing and payment. Investigate and develop a more equitable and efficient arbitrator billing process.

**FY 2012 ACCOMPLISHMENT:** The NMB initiated and implemented several special compensation projects, establishing more boards in which arbitrators were paid on a per-case basis and increasing compensation for cases heard online. These projects will be evaluated in FY 2013. NMB also implemented the Arbitrators Workspace which improved the billing and payment process.

IV

Integrate current technology into the arbitration process. Continue to integrate Arbitration business processes into the NMB Corporate Memory program. Cooperate with Mediation/ADR and Representation to improve the agency case-management system. Continue to encourage the parties to use the agency’s web-based video-conferencing system to reduce costs for arbitration hearings and adoption conferences.

**FY 2012 ACCOMPLISHMENT:** The NMB trained several arbitrators, railroad management officials and labor officials in the use of Online Video Conferencing, and several hearings were conducted using OVC during Fiscal Year 2012. The NMB also conducted a webinar using two well-known railroad arbitrators.